



**The Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Sechan Electronics, Inc.--Request for
Reconsideration

File: B-233943.2

Date: July 19, 1989

DIGEST

Request for Reconsideration is denied where protester fails to show any error of fact or law which warrants reversal or modification of prior decision, but essentially reiterates arguments considered in the initial decision.

DECISION

Sechan Electronics, Inc., requests reconsideration of our decision in Sechan Electronics, Inc., B-233943, Mar. 31, 1989, 89-1 CPD ¶ 337, in which we denied Sechan's protest against the Navy's award of a contract for certain conversion kits to McDonnell Douglas Missile Systems Company. Sechan asserts that the decision improperly held that the Navy was not required to conduct an analysis of the competitive advantage afforded to McDonnell Douglas because of its use of items of government furnished property (GFP) to perform the contract.

We deny the request for reconsideration.

The primary focus of Sechan's initial protest concerned other issues, in particular whether the Navy properly conducted discussions and requested best and final offers (BAFOs). Sechan argued that it should have received the award on the basis of its initial offer which was approximately 3 percent lower priced than McDonnell Douglas' initial offer. As a secondary matter, Sechan also argued that the Navy improperly calculated the rental value of certain GFP which McDonnell Douglas proposed to use. The rental value was added to McDonnell Douglas' evaluated price to eliminate the competitive advantage accruing from the use of this GFP, as required under Federal Acquisition Regulation (FAR) § 45.201(a) (FAC 84-33). Sechan contended that there were a number of inaccuracies in the Navy's

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calculation of \$12,636.17 as the rental value of McDonnell Douglas' GFP.

In our initial decision we noted that while there was less than a \$3,000 price difference between McDonnell Douglas' evaluated BAFO price of \$19,203,560 and Sechan's price of \$19,206,267, McDonnell Douglas's proposal had been substantially higher rated technically in virtually all areas. As a result, McDonnell Douglas' technical score for its BAFO was almost 10 percent higher than Sechan's. We pointed out that under the solicitation's evaluation formula it would have required a change in the GFP rental value from the approximately \$12,000 Navy calculation to an amount in excess of \$450,000 to offset McDonnell Douglas's higher technical score. Sechan's most optimistic analysis of the alleged GFP rental value miscalculations would have resulted in a change in the calculation of approximately \$100,000, with a resulting total GFP rental value of approximately \$110,000. Accordingly, we found that Sechan had not demonstrated that it was prejudiced even if it was correct with respect to the alleged calculation errors.

In its request for reconsideration, Sechan asserts that it used conservative numbers in its calculations, and that it did not concede that the maximum GFP adjustment was less than \$110,000. Sechan also argues that the GFP rental value was calculated on the basis of an equipment list supplied by McDonnell Douglas, which McDonnell Douglas indicated was inaccurate. Sechan contends that the effect of our decision is to excuse the Navy from satisfying its obligation to eliminate the competitive advantage accruing from the use of GFP, which is required by FAR § 45.201(a).

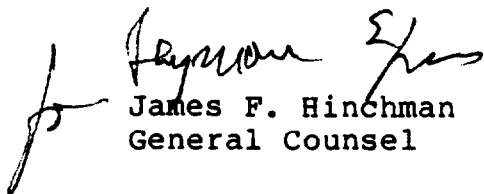
Sechan's argument misconstrues the holding of our prior decision. We did not find that the Navy had no obligation to calculate GFP rental value and adjust McDonnell Douglas's proposal on the basis of this calculation. The agency report makes it clear that the Navy did perform the required GFP rental value analysis and adjusted McDonnell Douglas' evaluated price accordingly. We merely pointed out that even if there were inaccuracies in these calculations, Sechan had not shown that it was prejudiced as a result. This is consistent with our view that a protester must normally show that it was prejudiced by an agency's allegedly improper evaluation in order to be entitled to relief. See Washington Analytical Services Center, Inc., B-233141, Feb. 21, 1989, 89-1 CPD ¶ 176; Gould, Inc., Ocean Systems Division, B-229965, May 16, 1988, 88-1 CPD ¶ 457. Accordingly, since the alleged calculation errors would not have warranted a change in the agency's determination to

award to McDonnell Douglas, the decision properly held that Sechan had provided no basis to disturb the award.

We note that Sechan's assertion that McDonnell Douglas concedes the inaccuracy of the relevant GFP equipment list is factually incorrect. McDonnell Douglas submitted an initial GFP list to the Navy on November 18, 1988, which it noted was not all inclusive. McDonnell Douglas subsequently submitted a final, inclusive list on November 23, which was used by the Navy in making the GFP rental value calculations. Sechan contends that it did not concede that the maximum possible error in the GFP calculations was approximately \$100,000 because the GFP equipment list was incomplete, and the additional equipment was not included in its calculations. However, as noted above, the GFP list was inclusive. Further, a fair reading of Sechan's submissions in this regard shows that \$100,000 was, in fact, the maximum error which Sechan projected. In addition, there is no evidence in the record to support Sechan's hypothesis that the approximately \$12,000 GFP rental value calculation should have been in excess of \$450,000, which would have been necessary to affect the award determination.

Under our Bid Protest Regulations, a party requesting reconsideration must show that our prior decision contains either errors of fact or law or that the protester has information not previously considered that warrants reversal or modification of our decision 4 C.F.R. § 21.12(a) (1988). Repetition of arguments made during the original protest or mere disagreement with our decision does not meet this standard. See R.E. Scherrer, Inc.--Request for Reconsideration, B-231101.3, Sept. 21, 1988, 88-2 CPD ¶ 274. Sechan has merely repeated arguments which it made in its original protest and, while it disagrees with our conclusion, it has not shown that the decision is legally erroneous.

The request for reconsideration is denied.


James F. Hinchman
General Counsel